

12-08-0

~~PATENT~~~~DAC #25 Alpus ABN/J  
WJD 12-22-03~~

Attorney Docket No. 81862P072

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re utility Patent Application for: )  
David A. Hughes, et al. ) Examiner: Hsu, Alpus  
Application No.: 08/825,492 ) Art Unit: 2665 **RECEIVED**  
Filed: March 28, 1997 ) DEC 15 2003  
For: SCHEME FOR MERGING PARTIALLY ) Technology Center 2600  
FILLED ATM CELLS )

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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DEC 10 2003  
**OFFICE OF PETITIONS**

**PETITION UNDER 37 C.F.R. § 1.182**  
**TO WITHDRAW THE NOTICE OF ABANDONMENT**

Sir:

Applicants hereby petition under 37 C.F.R. § 1.182 to withdraw the abandonment of this patent application.

This information is being submitted promptly after applicants have learned of the abandonment on the basis of the Notice of Abandonment mailed October 24, 2003.

It is respectfully submitted that applicants timely filed a Continued Prosecution Application (CPA) with a Preliminary Amendment in response to the Decision on Appeal. The Decision on Appeal was mailed August 27, 2002. Applicants timely deposited the Continued Prosecution application (CPA) and Preliminary Amendment with the U.S. Postal Service as Express Mail on October 18, 2002 in accordance with the procedures of 37 C.F.R. § 1.10.

Enclosed are photocopies of the following items that were filed with the United States Patent and Trademark Office ("U.S. PTO") on October 18, 2002:

- (1) Continued Prosecution Application (CPA) Request Transmittal dated October 18, 2002;
- (2) Nonpublication Request Under 35 U.S.C. 122(b)(2)(B)(i) dated October 18, 2002;
- (3) Preliminary Amendment dated October 18, 2002 Accompanying Continued Prosecution Application;
- (4) a check for \$1,022.00 for the CPA filing fee;
- (5) the return postcard.

The above-referenced postcard was returned to the undersigned attorney by the U.S. Patent and Trademark Office stamped with a date of October 18, 2002 by the mailroom of the U.S. Patent and Trademark Office. The Express Mail label shows a "Date In" date of October 18, 2002.

Applicants believe that this abandonment was a mistake of the Patent and Trademark Office. The Patent and Trademark office mistakenly mailed a Notice of Abandonment on October 24, 2003 with respect to this patent application.

Applicants therefore respectfully request reconsideration and withdrawal of the holding of abandonment of the above-identified patent application on the basis that there was in fact no abandonment.

The following documents that support applicants' request are enclosed as Exhibits to this Petition:

- (1) a photocopy of the Continued Prosecution Application (CPA) Request Transmittal dated October 18, 2002;
- (2) a photocopy of the Nonpublication Request Under 35 U.S.C. 122(b)(2)(B)(i) dated October 18, 2002;
- (3) a photocopy of the Preliminary Amendment dated October 18, 2002 Accompanying the Continued Prosecution Application;

- (4) a photocopy of the return postcard as stamped by the U.S. PTO;
- (5) a photocopy of the check for \$1,022.00;
- (6) a photocopy of the Express Mail label.

Also enclosed is a check for \$130.00 for the fee under 37 C.F.R. § 1.17(h) for this Petition. Applicants also request a refund of the petition fee because no defect on the part of applicants exists. If there are any additional charges, please charge Deposit Account No. 02-2666.

Alternatively, applicants hereby petition under 37 C.F.R. § 1.137(a) that the application be revived given that the delay was unavoidable because applicants in fact filed a CPA and Preliminary Amendment as shown above and, through no fault of applicants, that submission was apparently ignored by the PTO in favor of an erroneous Notice of Abandonment. There is simply no practical way for applicants to have avoided this holding of abandonment given that there was no basis whatsoever for the Notice of Abandonment by the PTO.

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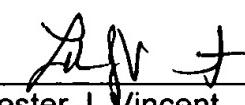
Respectfully submitted,

Technology Center 2600

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

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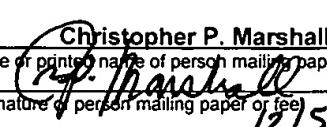
Dated: December 5, 2003

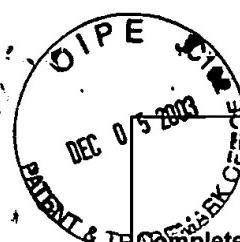
  
Lester J. Vincent  
Reg. No. 31,460

DEC 10 2003

OFFICE OF PETITIONS

12400 Wilshire Blvd.  
Seventh Floor  
Los Angeles, CA 90025  
(408) 720-8300

EXPRESS MAIL STATEMENT	
"Express Mail" mailing label number: EV336587952US	
Date of Deposit: December 5, 2003	
I hereby state that I am causing this paper or fee to be deposited with the United States Postal Service "Express Mail Post Office to Addressee" service on the date indicated above and that this paper or fee has been addressed to the Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450	
Christopher P. Marshall	
(Type or printed name of person mailing paper or fee)	
 12/5/2003	
(Signature of person mailing paper or fee)	
(Date Signed)	



## FEE TRANSMITTAL FOR FY 2004

(FY 2004 Begins 10/01/2003)

TOTAL AMOUNT OF PAYMENT (\$) 130.00

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Complete if Known:

Application No. 08/825,492

Filing Date March 28, 1997

First Named Inventor David A. Hughes

Examiner Name Hsu, Alpus

Art Unit 2665

Attorney Docket No. 81862P072

Applicant claims small entity status. See 37 CFR 1.27.

### METHOD OF PAYMENT (check all that apply)

Check  Credit Card  Money Order  Other  None

Deposit Account

Deposit Account Number : 02-2666

Deposit Account Name: \_\_\_\_\_

The Director is Authorized to do the following with respect to the above-identified Deposit Account:

Charge fee(s) indicated below.

Credit any overpayments.

Charge any additional fees during the pendency of this application.

Any concurrent or future reply that requires a petition for extension of time should be treated as incorporating an appropriate petition for extension of time and all required fees should be charged.

Charge fee(s) indicated below except for the filing fee.

### FEE CALCULATION

#### 1. BASIC FILING FEE

Large Entity	Small Entity	Fee Description	Fee Paid
Fee	Fee	Fee	Fee
Code	(\$)	Code	(\$)
1001	770	2001	385
1002	340	2002	170
1003	530	2003	265
1004	770	2004	385
1005	160	2005	80
		Utility application filing fee	_____
		Design application filing fee	_____
		Plant filing fee	_____
		Reissue filing fee	_____
		Provisional application filing fee	_____

SUBTOTAL (1) \$ 0.00

#### 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

	Extra Claims	Fee from below	Fee Paid
Total Claims	- 20** =	X	=
Independent Claims	- 3** =	X	=
Multiple Dependent			

\*\*Or number previously paid, if greater; For Reissues, see below.

Large Entity	Small Entity	Fee Description
Fee	Fee	Fee
Code	(\$)	Code
1202	18	2202 9
1201	86	2201 43
1203	290	2203 145
1204	86	2204 43
1205	18	2205 9
		Claims in excess of 20
		Independent claims in excess of 3
		Multiple dependent claim, if not paid
		**Reissue independent claims over original patent
		**Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) \$ 0.00

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FEE CALCULATION (continued)

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## 3. ADDITIONAL FEES

<u>Large Entity</u>	<u>Small Entity</u>	<u>Fee Description</u>	<u>Fee Paid</u>
Fee Code	Fee (\$)	Fee Code (\$)	
1051	130	2051	65 Surcharge - late filing fee or oath
1052	50	2052	25 Surcharge - late provisional filing fee or cover sheet
1053	130	1053	130 Non-English specification
1812	2,520	1812	2,520 For filing a request for ex parte reexamination
1813	8,800	1813	8,800 Request for inter parties reexamination
1804	920*	1804	920* Requesting publication of SIR prior to Examiner action
1805	1,840*	1805	1,840* Requesting publication of SIR after Examiner action
1251	110	2251	55 Extension for reply within first month
1252	420	2252	210 Extension for reply within second month
1253	950	2253	475 Extension for reply within third month
1254	1,480	2254	740 Extension for reply within fourth month
1255	2,010	2255	1,005 Extension for reply within fifth month
1401	330	2401	165 Notice of Appeal
1402	330	2402	165 Filing a brief in support of an appeal
1403	290	2403	145 Request for oral hearing
1451	1,510	1451	1,510 Petition to institute a public use proceeding
1452	110	2452	55 Petition to revive – unavoidable
1453	1,330	2453	665 Petition to revive - unintentional
1501	1,330	2501	665 Utility issue fee (or reissue)
1502	480	2502	240 Design issue fee
1503	640	2503	320 Plant issue fee
1460	130	1460	130 Petitions to the Commissioner
1807	50	1807	50 Processing fee under 37 CFR 1.17(q)
1806	180	1806	180 Submission of Information Disclosure Stmt
8021	40	8021	40 Recording each patent assignment per property (times number of properties)
1809	770	2809	385 For filing a submission after final rejection (see 37 CFR 1.129(a))
1814	110	2814	55 Statutory Disclaimer
1810	770	2810	385 For each additional invention to be examined (see 37 CFR 1.129(b))
1801	770	2801	385 Request for Continued Examination (RCE)
1802	900	1802	900 Request for expedited examination of a design application
1504	300	1504	300 Publication fee for early, voluntary, or normal pub.
1505	300	1505	300 Publication fee for republication
1803	130	1803	130 Request for voluntary publication or republication
1808	130	1808	130 Processing fee under 37 CFR 1.17(i) (except provisionals)
1454	1,330	1454	1,330 Acceptance of unintentionally delayed claim for priority

Other fee (specify) \_\_\_\_\_

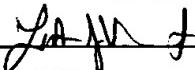
Other fee (specify) \_\_\_\_\_

SUBTOTAL (3) \$ 130.00

\*Reduced by Basic Filing Fee Paid

SUBMITTED BY:

Typed or Printed Name: Lester J. Vincent

Signature:  Date: December 5, 2003

Reg. Number: 31,460 Telephone Number: (408) 720-8300

Send to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450



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EXHIBITS

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- (2) a photocopy of the Nonpublication Request Under 35 U.S.C. 122(b)(2)(B)(i) dated October 18, 2002;
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- (5) a photocopy of the check for \$1,022.00;
- (6) a photocopy of the Express Mail label.



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OCT 25 2002

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN  
LOS ANGELES

**ENTERED**

OCT 28 2002

STATUS DB-LA

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Application No. 08/825,492 Filing Date: 03/28/97 BSTZ Docket #: 081862.P072C2 Atty/Sec: TNF/Jls  
Date Mailed: 10/18/2002 Docket Due Date(s): Client: Cisco Technology, Inc.  
Title Scheme for Merging Partially Filled ATM Cells

First Named Inventor: David A Hughes

The following has been received in the U.S. Patent & Trademark Office on the date stamped hereon:

- Amendment: Preliminary (8 pgs)  
 Appeal Brief & two copies ( pgs)  
 Application:  
    ( pages w/ cover & abstract)  
 Assignment & Cover Sheet ( pgs)  
 Certificate of  
 Continued Prosecution Application (CPA)  
 Declaration & POA ( pgs)  
 Drawings: sheets, figures  
 Express Mail No: EV151113812US  
 Extension of Time: \_\_\_\_\_  
 Fee Transmittal (original & copy)  
 Other Postcard
- Information Disclosure Statement & PTO/SB/08 ( pgs)  
 Issue Fee Transmittal (original & copy)  
 Nonpublication Request Under 35 U.S.C. 122(b)(2)(B)(i)  
 Notice of Appeal  
 Petition for:  
     Request for Continued Examination (RCE)  
     Reply Brief ( pgs)  
 Request to Rescind Previous Nonpublication Request  
 Response to  
 Terminal Disclaimer  
 Transmittal of Formal Drawings  
 Transmittal of Publication Fee Due  
 Transmittal Letter  
 Check No. 1470 in the Amount of \$1,022.00  
 Check No. in the Amount of

SJ



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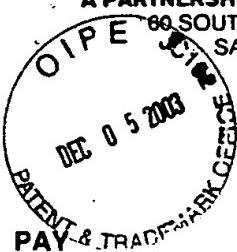
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BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP

A PARTNERSHIP INCLUDING LAW CORPORATIONS

60 SOUTH MARKET STREET, SUITE 510  
SAN JOSE, CA 95113-2392  
(408) 947-8200



WELLS FARGO BANK

001470

1470

11-24  
1210(8)

October 18, 2002

DOLLARS \$

1,022.00

ONE THOUSAND TWENTY-TWO & NO/100

TO  
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ORDER  
OF

Director of the United States  
Patent & Trademark Office  
Washington, DC 20231-0001

MP  
AUTHORIZED SIGNATURE

001470 112100024814496878455

THE SECURITY FEATURES ON THIS DOCUMENT INCLUDE A MICRO-PRINT SIGNATURE LINE, BLEED THRU NUMBERING, A TRUE WATERMARK AND VISIBLE FIBERS.

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IF NOT CORRECT PLEASE NOTIFY US PROMPTLY. NO RECEIPT DESIRED.

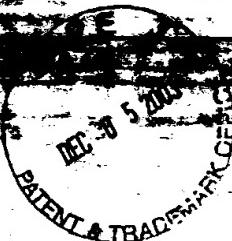
Invoice: 10/18/2002 Amount: 1022.00  
081862.0072C2 Cisco Technology, Inc. TNF/jls  
Continuation Application filing fee  
Scheme for Merging Partially Filled ATM Cells  
Inventors: David A. Highes, et al.  
USSN 08/825,492 Filed March 28, 1997  
Ex Mail No.: EV 151 113 812 US

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		Customer Copy	
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From Zip Code	Date of Delivery (SPO)	Flat Rate Envelope	EXPRESS MAIL
7015701	10/18/01	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	UNITED STATES POSTAL SERVICE
Date In Mo. Day Year	Time 12 Noon <input type="checkbox"/> 3 PM <input type="checkbox"/>	Postage \$ 0.00	Delivery Attempt
10 18 01	12 Noon <input type="checkbox"/> 3 PM <input checked="" type="checkbox"/>	Return Receipt Fee \$ 0.00	Time <input type="checkbox"/> AM <input type="checkbox"/> PM Employee Signature
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Weight Lbs.	Int'l Air Mail Country Code	Total Postage & Fees \$ 3.65	Delivery Date Mo. Day Year <input type="checkbox"/> AM <input type="checkbox"/> PM Employee Signature
No Delivery <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday	Accepted Clerk Initials		
METHOD OF PAYMENT: Express Mail Corporate Acct. No. X901254 081862			
FROM: (PLEASE PRINT) PHONE: ( ) BLAKELY-SOKOLOFF TAYLOR & ZAFMAN LLP 601 S MARKET ST STE 510 SAN JOSE CA 95113-2392 P072C2 10/18/01 IN 15			
TO: (PLEASE PRINT) PHONE: ( ) ASSISTANT COMMISSIONER FOR REVENUE COLLECTIONS WASHINGTON DC 20231-0000			
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